

TRACTATUS
De Jure Regnandi, & Regni:
OR, THE
SPHERE
OF
GOVERNMENT.

According to the Law of God,
Nature, and Nations.

By WILLIAM BALL, Gent.



Printed in the Yeare, 1645.

35

Deputy Secretary of War
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To the Honourable, Major Generall
SKIPPON,

*William Ball of Barkham, wisheth all good successe
and happinesse.*

SIR,



T Your being in Redding, about what
time the Kings forces relinquished that
place in May 1644. I presented unto
You a paper, De jure Regnandi, et
Regni, wherein was contained the heads and chiefe
points of that Subject, and therein I promised to give
farther satisfaction, which I hope I have now effected
to the satisfaction of all indifferent men; and I have
thought fit to dedicate it to Your Honour, to whom I
first of all tendered the Epitome: remaining

October 27.

1645.

Your Honours

servant

William Ball.

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Your Honor

1874

W. H. H. H.



Tractatus

De jure Regnandi, & Regni :

O R,

The Sphere of Government, &c.



Any there are (too many at this day) who *velis remisque*, or rather *ut & armis*, do contend that the Kings Prerogative power (as it is denominated) is like to *Terra Australis Incognita*, which is vast and unknowne, and in a manner unlimited, extending from the *Equator* (as divers *Cogmosgraphers* describe) to the Pole *Antartick* in latitude, and of an huge, yet uncertaine longitude, some suppose it answers to all the degrees; and even so they would have the Kings Prerogative power vast, and unknowne, and in a manner unlimited, extending from the *Equator* of Law 90 degrees to the Pole or Period of sole Arbitrary Government in latitude, and in longitude so huge and uncertaine, as that it answers to all the degrees of selfe end, so doe every thing that Power would admit. Others there are, who suppose that the power of Parliament is like the *Great Sea*, which not only environs the Land, and enters into all the creeks and harbors, wheresoever its flux or currents can make

way; but is thought also to extend from *Pole to Pole*, and to answer to all degrees of longitude by one denomination, or another, as it were boundlesse; for even so they would have the Parliaments power, *not only to enter by limitation the King, and by their flux and currents of consultation to enter into all creeks and harbours of private policie, to make them beneficial for King and People; but it must be thought also to extend from Pole to Pole of Arbitrary jurisdiction, quasi ad placitum de omnibus, and (as these men would have it) to all degrees of absolute Authority, and as it were boundlesse.* But these men must give mee leave to tell them, that I cannot thinke the Kings *Terra Australis Incognita* of Prerogative power, or the Parliaments *Great Sea* of Iuridicall power to be so unlimited or boundlesse; or if they were, yet as the Aire environs both the Land and the Great Sea, and gives life to all the creatures in them, and without which Aire both Land and Sea would be desolate, and of no use; even so the Peoples good in generall, environs both King and Parliament, and gives life to all their actions, and without which Peoples good, both King and Parliament would be *null*, and of no use; and to make good this my opinion, or Assertion, I have inserted (as compendiously as I could) what of right generally belongs to King, Parliament, and People; submitting my selfe to more solid reasons or Arguments if given or produced.

1. It is certaine, that *all power is of God*, Rom. 13. and that it is derived from him either by extraordinary calling, or appointment, as was that of *Moses, Aaron, &c.* or by ordinary, which is either *naturall*, as that power which a Parent hath naturally (grounded upon humane reason, as well as the Word of God) over his childe; or *Nationall*, as that power which Potentates, or States have over their Subjects or People. And of power Nationall or Politicall, there are severall

species

(3)

Species or forms, *viz.* Monarchy, Oligarchy, Aristocracy, Democracy, or mixt, or compounded of these forms: Monarchy is either unlimited, or limited; *unlimited*, is where *tam jus Regni absolutè quàm Regnandi*, as well the Law of the Realm absolutely, as the Law of Reigning, or ruling over, resides in one alone, as it did in *Nebuchadnezzar*, and is said to bee in some of the Kings of the East, and of Affrica at this day; *limited* is where *Ius Regnandi, et Regni conditionatè*, the Law of Reigning, or ruling over, and of the Realme conditionally resides in one alone, as it seemeth to have been in *Darius*, Dan. 6. who made not the Decree concerning sole petitioning himselfe, by himselfe alone (as did *Nebuchadnezzar* the adoration of the Image, Dan. 3) but by advice of his Princes, and Councillours; nor could he alter his Statutes at his pleasure, as appeares, Dan. 6. v. 15. and such like limited Monarchs are the Great Turke, the King of Persia, and it may be the Emperours of Russia and Æthiopia; for these Potentates, albeit they can *ad arbitrium*, command to strangle, or deprive one man of his life, and he is deprived, and disposses another of his goods, and he is dispossessed, yet can they not at their pleasure *disannull*, or alter their Religion, or fundamentall Laws of their Nation: and this power of Monarchy unlimited, or limited, hath been imposed upon enslaved Nations, either by violent and unnaturall conquests, as it was by the Assyrian, Caldean and Persian Monarchs, &c. or by conquest, and consent (or agreement as it were) to undergoe, and be governed by such power, as in Turkey, Muscovy; and in a manner in these dayes, in France, Castile, and Florence.

Oligarchy, is where *Ius Regni, sive Imperii, vel Reipublicæ*, the Law of the Realme or Empire, or Commonwealth, is intrusted to, and resident in a few, as it was in the Roman *Triumviri*, who were not absolute, for they could not alter

at

at their pleasure the Roman Lawes; but were rather themselves alterable.

Aristocracy, is where *Ius Regni*, *sive Imperii vel Reipublicæ*, the Law of the Realme, or Empire, or Commonwealth, is resident in the Princes or chiefest of the people; and this power may be either inherent, and as it were absolute, as it is in Venice; or intrusted, or limited, or qualified, as in Holland and Geneva; for the Aristocraticall Power, or *States* in those parts, I give some account of their actions to satisfy the people.

Democracy (to speake properly) is where *Ius Reipublicæ*, the Law of the Commonwealth resides in the people, who have not only a perpetuall power of nominating what Rulers and Governours they please, but also of dictating, or prescribing by what rules they will be governed by; and of this Democracy, if there be not an Exact, yet there is a near form in the *Cantons* of Switzerland.

Mixed, or compound formes of Government consist sometimes, and in some places, of Monarchy and Aristocracy; as in Poland; or of Monarchy, Aristocracy, and Democracy, as in England: in Poland the Aristocracy hath been most prevalent; in England for the most part the Democracy hath prevailed: but I intend not to insist or instance what hath been *de facto*, or what ought to be *de jure*; in England *jus Regnandi* is the Kings, he hath it introduced by conquest, which albeit that barely of it selfe it created not a just Title, yet joyned with the consent of the Nation it did; and to signify the Kings introduction by conquest, the words *à conquestu*, are to this day inserted in all *Fines*: The King hath his *jus Regnandi Dei, non populari gratiâ*, and so hath the King of Poland (although he be elective) his *jus Regnandi à Deo gratiâ*, but not without, but by consent of his Nobility;

Conquest
without speci-
all warrant from
God (as had
the Israelites
against the
people of Canaan)
or with-

lity; in England it is our Kings by birthright: neither Nobility, or people can, or ought to deprive him of it, as long as he protecteth them according to the Lawes, and conserveth them (to the utmost of his power) from forraigne slavery or subjection.-- And as *Ius Regnandi* is the Kings in England, so *Ius Regni Actuale, & Potentiale*, is the peoples in generall (that is to say, the people in their severall Degrees have right to their Lawes in *Being*, and by their Feoffices, the Knights, Citizens, and Burgeses, whom they intrust to give their consents, they have also right to the Lawes in *Possesse*, or to be) the King cannot, nor ought to *nullifie* the Law or Lawes at his pleasure: for as in a Lordship or Mannor, the Law of Right of inheriting belongeth to the Lord, his heires and successors; of which Right of inheriting, the Tenants of a Mannor cannot, nor ought not to deprive the Lord, his lawfull heires and successors; and also in the same Lordship or Mannor, the Law, or right of customes belongeth to the Tenants, their heires or successors, of which right of customes the Lord cannot, nor ought to deprive the Tenants, their heires or successors; even so is it, or ought to be in this Kingdome of England between the King and the people in generall.

3. And having said that *Ius Regnandi* is the Kings, I will first briefly insert what *Ius Regnandi* comprehends; it comprehends a power ordinary, and extraordinary; both limited, and qualified, neither absolute; and this last, some call *Prerogative*: The ordinary power of a King of England is to *convene* or assemble Parliaments, and to ratifie or disanull what they shall generally approve, or disapprove of for the good of the Kingdome, or any essentiall part or member thereof; for as a *Body politick* the King is obliged *in foro conscientia*; to doe any thing for the good of the Kingdome, provided that it destroy not his owne right: The ordinary power also

out a just National Title, is unjust, because it is accompanied with two great sins, pride and covetousnesse, and is directly opposite to the Law of nature in that it depriveth other men of their liberty and propriety.

of a King of England is to nominate, and constitute Judges, and Civill Magistrates, Commanders and Officers Military; provided that such as concerne the *Publicke*, be not generally disliked by the *Publicke*; because although it belongs to the King to appoint who shall sustaine his *person*, or *vices suas gerere*, yet for as much as those persons doe meddle with, and are conversant about the affaires of the Kingdome more then of the King, if Kingdome or Publick therefore dislike them, the King ought *in foro conscientiae*, to displace them, and appoint such as they may like of. It is in the Kings ordinary power also, to confer dignities, and to dispose of those things that meerly concerne his owne *Interest*; I say *meerly*, because the Crowne is the Kings *Interest*, but not meerly his *interest*, he is owner of it but for his naturall life, neither can he dispose of it. The King hath relation to the Crowne but for his naturall life, and then *cedit alii*.--The extraordinary (or Prerogative) power of a King of England, I define thus, *Est virtus siue potentia in personâ Regiâ benefaciendi sibi, & populo in quibus leges non sufficienter se extensas habent*; a power residing, or beeing in a King, whereby he may doe good to himselfe, and people, in things wherein the Lawes doe not sufficiently extend; and this power may be said to be *intra legem, sed non de lege*, this power is environed by the Law, and hath the same end that the Law hath, *viz.* the good of King and people; from this power extraordinary it follows, that if a sudden invasion should be before a Parliament could be convened; or assembled (a thing not very likely) the King for the raising of forces for defence, might impose taxes upon his Subjects, such as were usually imposed upon them by consent of former Parliaments in such like cases; and for the doing or accomplishing thereof hee may issue forth his Proclamations sufficiently strengthened with penall injunctions:

Dixi extensas
quâ leges se
semper inten-
sas ad summû
Rectum, cui
ordinantur ha-
bent etsi non
semper dicunt
modum illius
intentionis.

(7)

ons : But he ought forthwith to call , or assemble a Parliamēt, because the Publicke is involved as much , or more then himselfe, and that being assembled, not to do any thing without their consent : for to speake truly, *a King of England is but in nature of an high Steward of the Kingdome by inheritance*,-- By this extraordinary power also a King may in some cases pardon (as they call it) or rather suspend or exempt the penalties due to convicted or condemned felons or traytors ; for the Law only provides punishment due to such offenders ; but the King may exempt the punishment , where the parties vertues , or deserts have formerly countervailed his misdeeds, or otherwise where there is hope and possibility , that he may by his good endeavours benefit the King, and Country as much as he hath dampnified them; for these causes ought to be the end of exempting from punishment delinquents for matters or crimes of an high nature; and in such things as these consists the Kings extraordinary power or Prerogative.

4. Yet there is one thing greatly insisted upon, and affirmed by some to be a most essentiall part of the Kings Prerogative, and that is the Kings *negative voice* in Parliamēt; for my part I must confesse that I could never be otherwise satisfied, but that all Statutes, or Acts of Parliamēt here in England, were made by consent of our Kings or Queens; and that the said Statutes, or Acts doe themselves either *explicitly*, or *implicitly* demonstrate as much; for if it be not inserted in any Act or Statute, *Be it therefore enacted by the Kings (or Queens) most excellent Majesty, with assent of the Lords and Commons, &c. then is it debated, be it therefore enacted by Authority of this present Parliamēt, &c.* wherein the King is comprehended as the head or chiefe of his Parliamēt, without whose consent (it seems) such Acts had not beene in their full

force and vertue,--not withstanding I do not see that because the Kings consent doth give force or vertue to an Act or Statute, that therefore his non-consent, or *negative voice* is a most essentiall part of his Prerogative or power extraordinary, but rather of his ordinary power: and I conceive moreover power extraordinary or ordinary to consist rather in reason *positive* then *negative*, in *being* rather then in *non being*, and consequently in the Kings power to *consent*, and *Act*, rather then in his power to *non consent* and *non-act*, which upon the matter, is but *ens negativum*, a deniall of acting, enacting, or coenacting with the Parliament; wherefore concerning the Kings negative voice in Parliament, I state the case thus; *viz.* that his consent is either necessary, or unnecessary to the consummating of an act in Parliament; if unnecessary, to what end should it be insisted upon: if necessary, then is his consent either voluntary, & free (as in reason it may seem to be, as well as the consent of either House of Parliament) or else the King is tyed and obliged, not only *in foro conscientia*, but *jure determinato* to give his consent; this last cannot be made appeare; for a King of England hath power to write, if willing to give his consent *Le Roy le veut*, or if unwilling, *Le Royle aviserà* (as for that allegation which some bring, *viz.* that the King never writes, *Le Roy le veut*, or the King will not, it seemeth to me of no great consequence, for if the King may as a Politick body advise as he pleaseth he may consequently not will, till he please; wherefore his consent must be voluntary, that is to say the King hath free power to *consent or dissent*, even as he is a Body Politick, not withstanding that the vertue of his *Authority* consists in his *positive power of consent*, or being able to *act*. &c. as aforesaid.

5. Furthermore for my part I conceive, that although the King have free power to consent or dissent (even as he is a Politick body) and that his consent give force and vertue to

God hath free power to doe what he pleaseth; yet the Attribute of his Omnipotence is not denominated from his not willingnesse to doe, but from his power of being able to doe, if willing; So though the King have free power to consent or dissent to his Parliament, even as he is a body politick, yet the vertue of his Authority cannot be denominated from his non-willingnesse to consent, but from his power of acting, &c. if willing.

an Act and Statute (as aforesaid) yet his dissent doth not or cannot frustrate, or make void an *Ordinance* concluded of and avouched by both Houses of Parliament, and generally accepted of by the whole, or major part of the Kingdome; and the reason is, because the Parliament is the representative Body of the Kingdom, intrusted by the Kingdome, and may therefore conclude of, and constitute what shall seem expedient for the good of the Kingdome; and such constitution, or Ordinance (generally admitted as aforesaid) hath, or ought to have the nature and vigor of Law, for *Ius Regni tam Actuale, quam Potentiale*, is the peoples in generall, they are interested in that, the Kings interest consists in *jure Regnandi*: but to this some it may be will object, that almost all immunities and priviledges to Cities, and especially to Townes corporate, have been conferred by our Kings, yea some will not sticke to affirme that all the liberties of the Kingdome have been granted by our Kings, and that therefore it may seem unjust that any constitution or ordinance should have the nature or vigor of Law, *volente Rege*, to this I answer, that almost all such immunities or priviledges are included *Radically* in the generall liberties of the *shires* or *shires* of the Kingdome, so that they are not meer *Grants* of our Kings, but *Treasures* of the Kingdome in more speciall manner *applied* by our Kings to some places, and persons; and as touching all liberties of the Kingdome to have been granted by Kings, I confesse I was once inclined to that opinion in respect of the conquest; but having considered that conquest barely of it selfe createth no just Title (as formerly instanced) and that the Laws and liberties which this Kingdome now enjoyeth were upon the matter *existent* before the conquest; & that the Conqueror, his heires and successors were obliged, *strictè in foro conscientia*, to conserve and maintaine them (albeit they

violated too many of them) I say these things considered, I cannot finde how the *liberties* of the Kingdome should proceed from our Kings, but that they are the peoples in generall by right, even as the Crowne, or *Jus Regnandi* is the Kings by birthright; yet admitting that some immunities or priviledges were granted by our Kings to some places and persons, or to the Kingdome in generall; may not the people, or (their feoffees in trust) the Parliament make the best use of such Grants, as well as Kings have made use of Grants from their Subjects? And why should then the Kings Grants of priviledges or liberties (if any such have been) impeach the Subjects in generall, or Parliament from doing what they may doe *jure Regni* for their generall good; any more then the Subjects Grants to Kings should impeach them from doing what they may doe *jure Regnandi* for their owne good: surely there can no reason be shewne; so that for my part I conceive that *Ordinances* in nature as aforesaid have, and ought to have *the force and vigor of Law*.

1. And I intend now by way of reason, to instance the generall benefit and liberty, which the Subjects of England have by the Law, or rather *their Law* (I exclude not the King from any benefit thereof, but only from power of violation) The Law here in England (to comprehend all speciall Lawes in one generall terme) is (as I conceive) *A rule admitted by common consent, by which all men from the highest to the lowest (according to their severall degrees) are to regulate their actions*: to this, both King and people have consented; by this, both King and people are preserved; with this, both King and people are united, and as it were linked together: This Law is the true *Robur Britannicum*, whereof the Common-Law is the root and stock; and the Statutes, Acts and Ordinances of Parliament are the branches, which at severall
time

times upon severall occasions, have spread themselves to so-
 lace the Subjects of this Kingdome, under which they might
 in peace repose: Now the Subjects of this Kingdom, which
 live under this Law of common consent, may be considered
 either as the Body *essentiall*, and so all naturall or native per-
 sons of what degree soever in all Counties, Cities and Towns
 corporate, and wheresoever within the limits of this King-
 dome are comprehended; or else the Subjects of this King-
 dome may be considered as the Body representative, and so
 the Parliament is only intended consisting of Lords or
 Peers (*quasi pares inter se*) and of Knights, Citizens and
 Burgeses, for the Counties, Cities and Townes corporate:
 These Knights, Citizens and Burgeses, are elected by the
Democraticall body of Freeholders, and such like of the peo-
 ple, and doe represent, or *vices suas gerere* (if the people with-
 out confusion or disorder could assemble together, there
 were no need of such election) so that these are the true *Re-*
presentative Body *Democraticall* of this Kingdome: the Lords
 are in nature of a Body *Aristocraticall*, and the King in form
 of a Monarch: and these three (*viz.* King, Lords, and Com-
 mons) are in themselves so indifferently, and exactly
 composed without excessse or defect *ab origine*, that as soule
 and body make but one entire man, so these three make
 but one entire power of government, the which (if de-
 fects or exorbitances should not, or doe not distemper, as
 diseases doe sometimes the soundest bodies, is without any
 flattery or vain-glorious praise, the most excellent known
 form of government in the world.

2. This power aforesaid may enact any thing *in beneficium*
Regni, for the benefit of the Kingdome, be it generall or spe-
 ciall, &c. but this power *in detrimentum libertatis, aut pro-*
prietatis generalis subditorum Anglia, cannot doe any thing;
 not

not any thing I say to damnifie the generall liberty, and propriety of the Subjects of England, and the reason is, because the English are *subditi potius, quam subiecti*, such as have rather put themselves under a law by common consent, then enforced to undergoe a Law.-- Wherefore I conceive the L. Digby to be greatly mistaken, who affirmed that *a King of England enspersed in his Parliament was as absolute as any Monarch of the East*; some Monarchs of the East can command to strangle one, and he is strangled; and to deprive another of his goods, or estate, and he is deprived; and this they can doe *ad placitum*, without shewing any cause, but the King and Parliament in England cannot doe so; those Monarchs can, and some of them have, and doe make Lawes that all their subjects estates shall be at their owne disposalls; viz. that they may take from whom they please, what they please, all if they please, *ad placitum*; but in England the King and Parliament cannot doe so; for the King (as aforesaid) is but in nature of high Steward of the Kingdome by inheritance, and the Parliament seoffees in Trust; and both tyed by the great Indenture of *Magna Charta* to conserve the generall liberty and propriety of the people: And it is to be noted, that (since *Magna Charta* was confirmed, which upon the matter, is but an Abridgement or *Epitome* of the liberties and rights of the Subjects of England before the conquest, which liberties and rights are grounded upon the Law of God and naturall reason) when any King of England would have extraordinary supplies from the people, that (the Parliament being convened) the King hath given or shewne some probable or seeming reasons why he desired, or had need of such supplies, and the Members of Parliament (I meane those of the House of Commons) at their returne to the places which intrusted them, have likewise shewne or manifested some generall reasons

The Parliament by imposing Subsidies and the like, do not dispose of the Subjects estates in generall *ad placitum*: but only apply equally so much of every mans estate as seems convenient (*in necessitatem Regni, &c.*) to the necessity of the Kingdome, and such like,

sons, or causes to the people, why such extraordinary supplies were by them granted. (And surely were there now an account taken, and given of the extraordinary and vast supplies levied on the estates of the people, it would give a great satisfaction to that neither King or Parliament did at any time take *ad placitum*, but *ad necessitatem*, nor did the people otherwise grant any extraordinary supplies of money.)

3. But some it may be will object, and say, suppose the King and Parliament should make an act that they would & might dispose of all the Subjects estates in England (themselves excepted, or not excepted) and consequently that they might take from whom they please, what they please, all if they please, *ad placitum*; what remedy might the Subjects have? I answer that for my part, I suppose it almost impossible that the King and Parliament should do such a thing; but admitting of a kinde of *impossible possibility*, I answer further, that in such case, the Counties, Cities, and Townes corporate might and ought first to petition against so great an injury, and if not remedied then they might *declare and protest* against such an act; if violated then they might defend themselves by Armes; for if the *Representative* Body of the Kingdome, may in the behalfe of the Kingdome, raise Arms for the defence of themselves and the Kingdome, may not the *essentiall*: is not the cause more noble then the effect, in that it gives being to the effect: doe not the Counties, Cities and Townes corporate give *being*, or a *well-being* to the Knights, Citizens and Burgeses by intrusting their *power Judiciall* to them? And yet by reposing or granting such Trust, they doe not disinvest themselves of their *right natural* (no more then one that passeth an estate to feoffees in Trust for some causes and considerations, disinvesteth himself of the use intended or reserved) so that they may defend their

their liberties and proprieties even by law of *Nature*, which no speciall or Nationall Lawes can *nullify*, untill men will become, or be made slaves, and lose the right of *Nature*. And besides it is an Axiom Politicall, *ubi nulla protectio, ibi nulla subiectio*; if therefore the King or Parliament, or King and Parliament should make an Act, that they might dispose of all Subjects estates *ad placitum*, as aforesaid, *defectum à protectione* they faile or fall from the protection of the people, and then the people may *deficere à subiectione*, and protect themselves, their liberties and proprieties even by Law Politicall.

4. But some will farther object that it may be, that the Counties, Cities and Townes corporate, doe intrust all their power both *Judiciall* and *Naturall*, fully and wholly as it were, to the Knights, Citizens, and Burgessees, at their election, promising and covenanting to stand to all that they shall doe in Parliament, &c. And they will it may be object, and say moreover that the King and Parliament are the *Legislative* power in England, and that they may as well make a Law to dispose of all Subjects estates in England, *ad placitum*, &c. as they have made, and can make Lawes concerning Religion, and the like.— I answer, that albeit the Counties, Cities, and Townes corporate, doe intrust their power *Judiciall* (not naturall) to the Knights, Citizens, and Burgessees, and promise to stand to what they shall doe, yet they intrust it *in beneficium Regni, non perniciem* (that is the proper and adequate object and end of their trust) and they promise to stand to what they shall doe in *matters disputable*, whether they be *Actual*, or *de facto*, or *Potential*; wherein the Kingdom may be either *benefited* or *dannified*, and of such things the people make them their Judges, but not in *matters indisputable*, wherein without any dispute the Kingdom would be wholly *dannified*, and enslaved, and deprived of its *naturall* rights.

Religion is a
matter dispu-
table.

rights (as in the King and Parliament having a power to dispose of all mens estates *ad placitum*, as aforesaid, of such things they make them no Judges : and the word *Represent* inferres as much, for to represent, or *alterius vices gerere* doth not import (as some would have it) to be an absolute Judge or *Empire* in all things, (for then he doth not represent, or *vices gerere*, but is absolute, and independent) but in some things moreover the writ whereby the Parliament is convened declares that they are not called together *de omnibus*, sed *de quibusdam arduis Rebus, & negotiis regendis, &c.* some things need not Parliament Assemblies to determine of them, but only to conserve them from violation, *as the generall and fundamentall liberty and propriety of the subject, &c.* and as concerning that the King and Parliament are the *Legislative power* in England, I grant that they are in things *disputable*, as aforesaid, but not in things *indisputable*, such as is the generall and fundamentall liberty and propriety of the Subject grounded upon the Law of Nature, &c. concerning their lives and estates, as formerly mentioned.

1. And now to satisfie such, who (by mis-interpreting some places or texts of Scripture) suppose it most unlawfull and heynous for a Nation or People to defend by Armes against a naturall, or rather Nationall power (whether Potentate or Potency it makes no matter) their Lawes and liberties if violated; I have thought good to discusse and resolve some of their chiefest Allegations; and first, that of the 13. to the Romans, *Let every soule be subject to the higher power, for there is no power but of God, &c.* Concerning which Text, I say, that every soule ought to be subject to the higher power, so far forth as that power doth lawfully extend (for God commandeth no unlawfull thing) either by divine Law, or by Law of Nature, or by Law of Nations : Power by Divine

Law is that which hath extraordinary or speciall appointment by God; (as I have already instanced in the beginning) that of Nature is grounded upon common principles of reason; that of Nations upon prudent and politicall reasons and considerations: Now to this last Power subjection may be due more or lesse; for some Nations have agreed and covenanted as it were to be slaves, as the Persians, Muscovites, Turkes, &c. others have made a better bargain for themselves in matters of subjection, as the English, Aragonese, &c. Now when the Apostle saies, *Let every soule be subject to the higher power, &c.* he intends not that such as were lesse subject, should make themselves slavish by undergoing any kind of needlesse or enforced subjection, but only that they should be so far forth subject as God had made, or caused them to be subject: And the Apostle infers as much in the same Chapter, v. 7. *Render therefore to all their dues, tribute to whom tribute, custome to whom custome, feare to whom feare, honour to whom honour:* he doth not say, *Render more then is due if it be exacted:* Moreover the Apostle in the words, *Let every soule be subject &c.* induces a generall cause of obedience, not a speciall, or in some cases: for suppose the Apostle had said, *Spare, or be mercifull to all men, for there is no man but he is of God, or the Image of God;* this had not prohibited, but it might have been lawfull to punish malefactors; so when the Apostle saies, *Let every soule be subject to the higher power, for there is no power but of God, &c.* This hinders not but that it may be lawfull to oppose Tyrants, usurers, and such like: And when the Apostle saies farther, *for whosoever resisteth the power resisteth the ordinance of God, &c.* it must surely be understood of power one way, or other lawfull (as the 3. v. in the same Chapter, and the verses following shew) for if otherwise the enslaved or oppressed people may free themselves

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(if they finde convenient occasion) from their bondage (without any speciall warrant from God) as did the petty Kings and people of Sodom and Gomorah, who were enslaved, or made Tributaries, Gen. 14. yet their leaving War (or *Rebellion*) was not reprehended, but rather countenanced by the high Priest in the time of the Law of Nature, and the usurping Tyrants of the Nations called enemies of just *Abraham* their assistant, who surely would not have aided or rescued his brother, and the rest of his brothers friends without some speciall warrant from God, whereof we read of none) if their leaving of War (or *Rebellion*) to free themselves from bondage had been unjust, but indeed the *Law of Nature* dictated their War to be just.

2. Another Allegation greatly insisted upon (albeit I see no great reason for it) to prohibit Subjects to take Arms in any case of Tyranny and oppression against a Nationall Potentate, is the Text, Matth. 22. v. 21. *Render therefore to Caesar the things which are Caesars, and to God the things which are Gods*; whereby some would conclude, that all temporall estates of Subjects are *Caesars* (or of such like as *Caesar*) and that therefore if *Caesar* should and would demand men to surrender all their estates into his hands they ought to doe it; or otherwise, if he should by violence take it, they ought to permit him, and no way to resist him; but I answer to such, that there is in those words not only a *distinction* of things spirituall and temporall, Gods and *Caesars*, but also a *limitation* of things temporall; for it is not said, *Render all your mony, or substance to Caesar*, but *the things which are Caesars*, so much as is due to him, his tribute mony, and such like: It may be some Critick will object and say, that it is also said, *And to God, the things that are Gods*, and that therefore according to this interpretation God may seem also to be limited; not so; for where the Text will admit of *limitation* (as aforesaid) there it ought to be admitted, but where it will not without incongruity, there it ought not to be admitted; when we have done all what we can do in respect of Gods service, we are

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but, *unprofitable servants*, we cannot punctually performe our duties; but we may give, or *Render* too much to *Caesar*, or *Cæsars*, Potentates or Potencies; unless they make it appeare that what we *Render* is for our good, as well as for theirs.

3. Some there are also who alleadge the 1 of Peter, 2. 13. *Submit your selves to every ordinance of man, for the Lords sake, whether it be to the King as supreme, &c.* and hence they would infer that all Acts, or Ordinances of Kings ought to be obeyed, or otherwise undergone and suffered, they must not be resisted: But surely Acts 4. v. 19. and also 5. v. 19. in things touching God, their Ordinances ought not to be obeyed, if opposite to the Ordinances of God; and for *Ordinances of man*, it seems that the Apostle meant that they should submit themselves only to such as were legall by the Law of Nature and Nations; as the very next verse imports, *or unto Governours, as unto them that are sent by him, for the punishment of evil doers, and for the praise of them that doe well.* Now the Apostle could not call any thing *well done* (for good there was none amongst the Heathenish Kings, and in his daies there were no Christian Kings neither in old Babilon, or new; but if there were it maketh no matter) I say the Apostle could not call any thing ordained by man, or *of the Ordinance of man, well done*, but such as should be congruous to the Law of Nature and Nations; such thing or things which albeit they were not *de Evangelio*, yet they were not *contra Evangelium*; such as the Apostle St. Paul speaks of; that the Heathens without the Law written, did according to the Law, to the *Ordinances* of such naturall, and nationall things doth the Apostle Peter command obedience, when he saies, *Submit your selves to every Ordinance of man, &c.* but not to unjust Ordinances; for that he could not meane if contrary to the Law of God, or of Nature and Nations.

4. Others greatly insist upon the 2. and 4. verses of the eighth Chapter of the Booke of Ecclesiastes, viz. *I counsell thee to keep the Kings commandements, and that in regard of the oath of God,--where*
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the word of a King is, there is power, and who may say unto him, what dost thou? First, it is to be noted that *Solomon* speaks of a King who had (as almost all the Kings of the East his neighbours had) *Potestatem vitam, & necis ad placitum*, and were in a manner absolute; and such a one was *Solomon* himselfe upon the matter; for the people of *Israel*, when they desired a King, desired such a one as all the Nations had, 1 Sam. 8. 5. and those were such as I have instanced, especially those of their neighbour Kings; insomuch that God was angry or displeased with the people, that they would put themselves into so great a bondage, as to desire or become subject to such a King, or Kings of such a nature; & therefore God bad *Samuel* shew them the nature of such a King, Now *Solomon* by way of counsell, or prudent policie adviseth men to keep the (legal) commandments of such a King (illegal he could not advise) in respect they had sworne to him (in the name of God as it seems) to do so: And if (as I have already instanced) a man become a slave to the great *Turke*, or sweare slavery to him, he ought to perform it, for he hath sworne it in the name of God; but if not, hee is not bound, he ought rather to make use of his freedome, according to that of the 1 Cor. 7. v. 21. -- and as for the words, *who may say to him what dost thou?* it is true, such Kings were uncontrollable; but our Kings are not Kings of such a nature, we only sweare to be true and loyall to them *de jure Regnandi*, (viz. that wee in conscience believe them to be our lawfull Kings, and that wee will defend their Crowne, Dignities, &c. to the uttermost of our power) which, God forbid, any one should so much as imagine to deprive our Kings of; but we sweare not to our Kings that they shall be the absolute disposers *de jure Regni*, we have otherwise conditioned; and therefore we are not any way comprehended in or by the before recited Texts to become slavish by keeping, or obeying all *Commandments* of our Kings of what nature soever: There are some other Texts of Scripture of the nature of these last recited, and reducible to the same exposition.

5. Yet furthermore, I will instance one Text, *Matth. 5. v. 39. But I say unto you resist not evil, &c.* Hence some will that free Subjects ought to suffer all indignities, oppressions and tyrannies, rather than to *resist or defend themselves by Armes*. But it is to be noted, that the true meaning of that Text is, that where Gods name may by suffering be magnified, there men ought to suffer all indignities, rather than to resist; but where Gods name may by suffering be rather dishonoured, then magnified, there men ought *not to suffer actually but intemionally*: as thus, A Judge if a base fellow should strike him on the one ear or cheek, ought to have so much *patience*, as that he could turne the other; yet he ought not actually to doe it, lest his Authority, and the Lawes of the Land also should suffer contempt: And a King, if an usurper should endeavour to dispose of his Scepter (or lawfull power exercised ought to have so much *humility*, as that he could let him have his Crowne also, or right of Reigning) but yet he ought not *actually* to doe it, lest he injure not only his Regall Authority, but also his Subjects in generall, whose welfare he is bound to protect: And even so likewise, a people, if a Nationall Potent, or Potentle should tyrannize or oppress them, ought (if it were possible all of them) to have so much *patience and humility*, as that they could suffer all indignities, yet they ought not alwaies to suffer them, lest (in some cases) by too much suffering, the Law of God, of Nature, and of their Nation (all which they are bound to conserve) should be violated: in the Chapter before recited, v. 21. it is forbidden to call a brother foole, yet St. Paul called the Galathians fooles, or foolish, Gal. 3. But how? out of admonition and compassion, not in hate or contempt, but *in ordine ad Deum*, to reprove, and advise them; and every act morall is specified by the object and end; so that if a People (to whom *ius Regis* belongs) take Armes to defend their *Laws and liberties, &c.* they doe it not out of *Rebellion*, but *in ordine ad Deum*, to reduce and reforme usurping or exorbitant *Potentates, of Potencies*.

Thus I conclude for the present, praying the Almighty Governour of all things, that King, Parliament and People, might in a happy union enjoy their just Power, Priviledge and Proprieties. Amen.

WILLIAM BALL.

